

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of:

Applications for Public Safety Pool
(Conventional) Licenses for Mobile
Use of ReconRobotics Video and
Audio Surveillance Systems on
430-448 MHz.

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DA 10-291
File No.s 0004270113, et al.,
WT Docket 08-63

To the Commission:

MOTION FOR ORDER NUNC PRO TUNC
REINSTATING MOTION TO SET ASIDE AND GRANTING SAME

Comes now the Movant, JAMES EDWIN WHEDBEE, pursuant to Section 1.41 of the Commission's rules and regulations (47 CFR § 1.41), respectfully moving the Commission for its Order, nunc pro tunc, reinstating and reconsidering Movant's Motion to Set Aside, Correct, and Vacate the Commission's Order, DA 10-291; sustaining said Motion to Set Aside; and rescinding Order, DA 10-291 together with any modifications thereof. Exhibited herewith, as Exhibit "B," is the Petition for Reconsideration concurrently filed with each licensee indicated by the Application file numbers in Exhibit "A" and captioned above.

Respectfully submitted:



01 MARCH 2012

JAMES EDWIN WHEDBEE, M.Ed., M.P.A.
Society of Broadcast Engineers #26971
MOVANT

5816 NE Buttonwood Tree Lane
Gladstone, Missouri 64119-2236
816.694.5913
jamesewhedbee@yahoo.com

CERTIFICATE OF SERVICE

THIS CERTIFIES that a true copy of the within and foregoing Petition for Reconsideration was e-mailed to each licensee in Exhibit A by and through their coordinator:

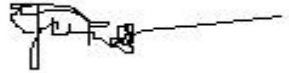
APCO INTERNATIONAL INC
CHRISTINE PHELPS
351 N WILLIAMSON BLVD
DAYTONA BEACH, FL 32114

THIS FURTHER CERTIFIES that a true copy of the within and foregoing Petition for Reconsideration was e-mailed to the following parties:

ARRL
Attn.: Chris Castro

FCC
Via: ULS Pleading Filing application

Respectfully submitted:



01 MARCH 2012

JAMES EDWIN WHEDBEE, M.Ed., M.P.A.
Society of Broadcast Engineers #26971
PETITIONER

5816 NE Buttonwood Tree Lane
Gladstone, Missouri 64119-2236
816.694.5913
jamesewhedbee@yahoo.com

EXHIBIT 'A' – 01 MARCH 2012 LICENSEES UNDER PETITION FOR RECONSIDERATION

File No. Application Date Filer

0004270113 City of Salina (filed 6/3/10; amended 8/24/10)

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
First Amended Petition to Deny 8/25/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee
Informal Request via § 1.41 of FCC Rules 2/26/2011 Whedbee

0004323710 Manatee County Sheriff's Office (filed 7/15/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
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Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

0004323903 Township of Hilltown (filed 7/15/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
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Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

0004323989 Berrien County Emergency Mgmt (filed 7/15/10)

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
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Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Informal Request to Strike Oppositions per § 1.41 9/11/2010 Whedbee

Federal Communications Commission DA 12-123

11

0004323990 Juneau Police Department (filed 7/19/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
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Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
 Reply 9/7/2010 Whedbee
 Petition for Declaratory Ruling 9/11/2010 Whedbee
0004327769 County of Allen (filed 7/19/10; amended 8/25/10)
 Petition to Deny Applications 8/4/2010 ARRL
 Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
 Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
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 Reply 9/7/2010 Whedbee
 Petition for Declaratory Ruling 9/11/2010 Whedbee
0004327793 Waco Police Department (filed 7/19/10; amended 8/25/10)
 Petition to Deny Applications 8/4/2010 ARRL
 Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
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 Petition for Declaratory Ruling 9/11/2010 Whedbee
0004327816 Grand Forks Police Department (filed 7/19/10; amended 8/25/10)
 Petition to Deny Applications 8/4/2010 ARRL
 Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
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 Petition for Declaratory Ruling 9/11/2010 Whedbee
0004327954 La Porte County Sheriff's Office (filed 7/19/10; amended 8/25/10)
Federal Communications Commission DA 12-123

12

Petition to Deny Applications 8/4/2010 ARRL
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 Petition for Declaratory Ruling 9/11/2010 Whedbee
0004329762 County of San Mateo (filed 7/20/10; amended 8/25/10)
 Petition to Deny Applications 8/4/2010 ARRL
 Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
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Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
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 Petition for Declaratory Ruling 9/11/2010 Whedbee
0004329770 Placer County Sheriff's Office (filed 7/20/10; amended 8/25/10)
 Petition to Deny Applications 8/4/2010 ARRL
 Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
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 Reply 9/7/2010 Whedbee
 Petition for Declaratory Ruling 9/11/2010 Whedbee
0004329788 Fishers Police Department (filed 7/20/10; amended 8/25/10)
 Petition to Deny Applications 8/4/2010 ARRL
 Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
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 Reply 9/7/2010 Whedbee
 Petition for Declaratory Ruling 9/11/2010 Whedbee
0004329833 Topeka Police Department (filed 7/20/10; amended 8/25/10)
 Petition to Deny Applications 8/4/2010 ARRL
 Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Federal Communications Commission DA 12-123

13

Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
 Opposition to Petitions to Deny 8/16/2010 ReconRobotics
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 Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
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 Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
 Reply 9/7/2010 Whedbee
 Petition for Declaratory Ruling 9/11/2010 Whedbee
0004330231 City of Norfolk (filed 7/21/10; amended 8/25/10)
 Petition to Deny Applications 8/4/2010 ARRL
 Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
 Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
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 Reply 9/7/2010 Whedbee
 Petition for Declaratory Ruling 9/11/2010 Whedbee
0004330276 Anaheim Police Dept. H/S Bureau (filed 7/21/10; amended 8/25/10)
 Petition to Deny Applications 8/4/2010 ARRL
 Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
 Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
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Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
 Reply 9/7/2010 Whedbee
 Petition for Declaratory Ruling 9/11/2010 Whedbee
0004330295 City of Sunnyvale (filed 7/21/10; amended 8/25/10)
 Petition to Deny Applications 8/4/2010 ARRL
 Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
 Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
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 Reply 9/7/2010 Whedbee
 Petition for Declaratory Ruling 9/11/2010 Whedbee
0004330345 City of Irwindale Police Department (filed 7/21/10; amended 8/25/10)
 Petition to Deny Applications 8/4/2010 ARRL
 Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
 Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
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Federal Communications Commission DA 12-123
 14
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 Petition for Declaratory Ruling 9/11/2010 Whedbee
0004330375 Tulsa Police Department (filed 7/21/10; amended 8/25/10)
 Petition to Deny Applications 8/4/2010 ARRL
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 Petition for Declaratory Ruling 9/11/2010 Whedbee
0004330395 City of Des Plaines P.D. (filed 7/21/10; amended 8/25/10)
 Petition to Deny Applications 8/4/2010 ARRL
 Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
 Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
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 Petition for Declaratory Ruling 9/11/2010 Whedbee
0004330433 Johnson County Sheriff's Office (filed 7/21/10; amended 8/25/10)
 Petition to Deny Applications 8/4/2010 Whedbee
 Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
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Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee
Informal Request via § 1.41 of FCC Rules 2/26/2011 Whedbee
0004330452 Rockland County Sheriff's Office (filed 7/21/10; amended 8/25/10)
Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
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Federal Communications Commission DA 12-123

15

Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
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Petition for Declaratory Ruling 9/11/2010 Whedbee
0004330803 Williamson County Sheriff's Office (filed 7/21/10; amended 8/25/10)
Petition to Deny Applications 8/4/2010 ARRL
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0004330938 Bradenton Police Department (filed 7/21/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
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Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee

0004330952 Lakeland Police Department – SWAT (filed 7/21/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
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Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee

0004330988 Union County Sheriff's Office (filed 7/21/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
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Federal Communications Commission DA 12-123

16

Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee
0004331004 Lafayette Police Department (filed 7/21/10)
Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
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Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Informal Request to Strike Oppositions per § 1.41 9/11/2010 Whedbee
0004331029 Alachua County Sheriff's Office (filed 7/21/10; amended 8/25/10)
Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
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Petition for Declaratory Ruling 9/11/2010 Whedbee
0004331064 Seminole County Sheriff's Office (filed 7/21/10; amended 8/25/10)
Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
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Petition for Declaratory Ruling 9/11/2010 Whedbee
0004331678 Cook County Sheriff PD (filed 7/22/10; amended 8/25/10)
Petition to Deny Applications 8/4/2010 ARRL
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Federal Communications Commission DA 12-123

17

0004331681 Mesquite Police Department (filed 7/22/10; amended 8/25/10)
Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
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0004331692 City of Henderson (filed 7/22/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL
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0004331714 Cedar Rapids Police Department (filed 7/22/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL
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0004331737 St. Louis County Police Department (filed 7/22/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL
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Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

0004331812 Thibodaux Police Department (filed 7/22/10; amended 8/25/10)

Federal Communications Commission DA 12-123

18

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

0004331906 Florence Police Department (filed 7/22/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee

First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

0004331911 St. Clair County Sheriff's Office (filed 7/22/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

0004331979 Buffalo Cty. Sheriff's Office (filed 7/22/10; amended 8/25/10; amended again 8/3/11)

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

0004331982 Bryan Police Department (filed 7/22/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee

Federal Communications Commission DA 12-123

19

Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

0004331984 Collier County Sheriff's Office (filed 7/22/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

0004331991 Joliet City Police Department (filed 7/22/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee

First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

0004331994 Eustis Police Department (filed 7/22/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

0004332028 Otter Tail County Sheriff's Office (filed 7/22/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics

Federal Communications Commission DA 12-123

20

Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee

Petition for Declaratory Ruling 9/11/2010 Whedbee

0004332058 Goodyear Police Department (filed 7/22/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

0004333278 Riverside Police Department (filed 7/23/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee

Petition for Declaratory Ruling 9/11/2010 Whedbee

0004333302 Calvert County Sheriff's Office (filed 7/23/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee

First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee
0004333316 Huntington Park Police Department (filed 7/23/10; amended 8/25/10)
Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
Federal Communications Commission DA 12-123

21

First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee
0004333336 Shasta County Sheriff's Office (filed 7/23/10; amended 8/25/10)
Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee
0004333409 Volusia County Sheriff's Office (filed 7/23/10; amended 8/25/10)
Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee
0004333431 New York Police Department – TARU (filed 7/23/10; amended 8/25/10)
Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee
0004333448 Grand Prairie Police Department (filed 7/23/10; amended 8/25/10)
Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee

First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL

Federal Communications Commission DA 12-123

22

Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee

Petition for Declaratory Ruling 9/11/2010 Whedbee

0004333550 Glendale Police Department (filed 7/23/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL

Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee

Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee

Opposition to Petitions to Deny 8/16/2010 ReconRobotics

Reply to Opposition of ReconRobotics 8/16/2010 Whedbee

Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee

First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee

Reply to Opposition to Petition to Deny 9/1/2010 ARRL

Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics

Reply 9/7/2010 Whedbee

Petition for Declaratory Ruling 9/11/2010 Whedbee

0004333561 Town of Scarborough (filed 7/23/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL

Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee

Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee

Opposition to Petitions to Deny 8/16/2010 ReconRobotics

Reply to Opposition of ReconRobotics 8/16/2010 Whedbee

Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee

First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee

Reply to Opposition to Petition to Deny 9/1/2010 ARRL

Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics

Reply 9/7/2010 Whedbee

Petition for Declaratory Ruling 9/11/2010 Whedbee

0004333571 Rock Springs Fire Department (filed 7/23/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL

Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee

Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee

Opposition to Petitions to Deny 8/16/2010 ReconRobotics

Reply to Opposition of ReconRobotics 8/16/2010 Whedbee

Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee

First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee

Reply to Opposition to Petition to Deny 9/1/2010 ARRL

Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics

Reply 9/7/2010 Whedbee

Petition for Declaratory Ruling 9/11/2010 Whedbee

0004333579 City of Marietta (filed 7/23/10; amended 8/12/10; amended again 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL

Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee

Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee

Opposition to Petitions to Deny 8/16/2010 ReconRobotics

Reply to Opposition of ReconRobotics 8/16/2010 Whedbee

Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee

First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee

Reply to Opposition to Petition to Deny 9/1/2010 ARRL

Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics

Reply 9/7/2010 Whedbee

Federal Communications Commission DA 12-123

23

Petition for Declaratory Ruling 9/11/2010 Whedbee

0004334593 Plymouth Police Department (filed 7/26/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL

Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee

Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee

Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

0004334597 Allen County Sheriff's Department (filed 7/26/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

0004336311 Sacramento County Sheriff's Office (filed 7/27/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

0004336333 Chandler Police Department (filed 7/27/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

Federal Communications Commission DA 12-123

24

0004336348 Natrona County Sheriff's Office (filed 7/27/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

0004336417 Carbon County Sheriff's Department (filed 7/27/10; amended 8/25/10)

Petition to Deny Applications 8/4/2010 ARRL
Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee

Opposition to Petitions to Deny 8/16/2010 ReconRobotics
 Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
 Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
 First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
 Reply to Opposition to Petition to Deny 9/1/2010 ARRL
 Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
 Reply 9/7/2010 Whedbee
 Petition for Declaratory Ruling 9/11/2010 Whedbee
0004337230 Pinellas County Sheriff's Office (filed 7/28/10; amended 8/25/10)
 Petition to Deny Applications 8/4/2010 ARRL
 Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
 Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
 Opposition to Petitions to Deny 8/16/2010 ReconRobotics
 Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
 Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
 First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
 Reply to Opposition to Petition to Deny 9/1/2010 ARRL
 Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
 Reply 9/7/2010 Whedbee
 Petition for Declaratory Ruling 9/11/2010 Whedbee
0004337276 Cincinnati Police Department (filed 7/28/10; amended 8/25/10)
 Petition to Deny Applications 8/4/2010 ARRL
 Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
 Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
 Opposition to Petitions to Deny 8/16/2010 ReconRobotics
 Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
 Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
 First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
 Reply to Opposition to Petition to Deny 9/1/2010 ARRL
 Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
 Reply 9/7/2010 Whedbee
 Petition for Declaratory Ruling 9/11/2010 Whedbee
0004341313 Texas Department of Public Safety (filed 8/2/10; amended 8/25/10)
 Petition to Deny Applications 8/4/2010 ARRL
Federal Communications Commission DA 12-123
 25
 Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
 Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
 Opposition to Petitions to Deny 8/16/2010 ReconRobotics
 Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
 Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
 First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
 Reply to Opposition to Petition to Deny 9/1/2010 ARRL
 Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
 Reply 9/7/2010 Whedbee
 Petition for Declaratory Ruling 9/11/2010 Whedbee
0004341325 State of Arizona (filed 8/2/10; amended 8/25/10)
 Petition to Deny Applications 8/4/2010 ARRL
 Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
 Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
 Opposition to Petitions to Deny 8/16/2010 ReconRobotics
 Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
 Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
 First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
 Reply to Opposition to Petition to Deny 9/1/2010 ARRL
 Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
 Reply 9/7/2010 Whedbee
 Petition for Declaratory Ruling 9/11/2010 Whedbee
 Informal Request pursuant to § 1.41 of FCC Rules 2/26/2011 Whedbee
0004341350 Anniston Police Department (filed 8/2/10; amended 8/25/10)
 Petition to Deny Applications 8/4/2010 ARRL
 Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee

Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
 Opposition to Petitions to Deny 8/16/2010 ReconRobotics
 Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
 Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
 First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
 Reply to Opposition to Petition to Deny 9/1/2010 ARRL
 Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
 Reply 9/7/2010 Whedbee
 Petition for Declaratory Ruling 9/11/2010 Whedbee
0004344532 City of Wilson Police Department (filed 8/4/10; amended 8/25/10)
 Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
 Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
 Opposition to Petitions to Deny 8/16/2010 ReconRobotics
 Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
 Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
 Petition to Deny 8/17/2010 ARRL
 First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
 Reply to Opposition to Petition to Deny 9/1/2010 ARRL
 Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
 Reply 9/7/2010 Whedbee
 Petition for Declaratory Ruling 9/11/2010 Whedbee
0004344564 CA Dept. of Corrections/Rehabilitation (file 8/4/10; amended 8/25/10)
 Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
 Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Federal Communications Commission DA 12-123
 26
 Opposition to Petitions to Deny 8/16/2010 ReconRobotics
 Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
 Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
 Petition to Deny 8/17/2010 ARRL
 First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
 Reply to Opposition to Petition to Deny 9/1/2010 ARRL
 Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
 Reply 9/7/2010 Whedbee
 Petition for Declaratory Ruling 9/11/2010 Whedbee
0004345093 Miami-Dade Police Department (filed 8/5/10; amended 8/25/10)
 Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
 Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
 Opposition to Petitions to Deny 8/16/2010 ReconRobotics
 Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
 Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
 Petition to Deny 8/17/2010 ARRL
 First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
 Reply to Opposition to Petition to Deny 9/1/2010 ARRL
 Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
 Reply 9/7/2010 Whedbee
 Petition for Declaratory Ruling 9/11/2010 Whedbee
0004345125 Atlantic City Police Department (filed 8/5/10; amended 8/25/10)
 Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
 Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
 Opposition to Petitions to Deny 8/16/2010 ReconRobotics
 Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
 Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
 Petition to Deny 8/17/2010 ARRL
 First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
 Reply to Opposition to Petition to Deny 9/1/2010 ARRL
 Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
 Reply 9/7/2010 Whedbee
 Petition for Declaratory Ruling 9/11/2010 Whedbee
0004345139 Grand Rapids Police Department (filed 8/5/10; amended 8/25/10)
 Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
 Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee

Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
Petition to Deny 8/17/2010 ARRL
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

0004345171 Memphis Police Department (filed 8/5/10; amended 8/25/10)

Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee

Federal Communications Commission DA 12-123

27

Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
Petition to Deny 8/17/2010 ARRL
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

0004346580 Charles County Sheriff's Office (filed 8/6/10; amended 8/25/10)

Petition to Deny Applications for Cond. Authority 8/7/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
Petition to Deny 8/17/2010 ARRL
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

0004346605 Reno Police Department (filed 8/6/10; amended 8/25/10)

Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
Petition to Deny 8/17/2010 ARRL
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

0004346626 Benton County Sheriff's Office (filed 8/6/10; amended 8/25/10)

Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
Petition to Deny 8/17/2010 ARRL
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

0004346678 Gilroy Police Department (filed 8/6/10; amended 8/25/10)

Petition to Deny Applications for Cond. Authority 8/6/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee

Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
Petition to Deny 8/17/2010 ARRL

Federal Communications Commission DA 12-123

28

First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee

Petition for Declaratory Ruling 9/11/2010 Whedbee

0004346697 County of Hawaii (filed 8/6/10; amended 8/25/10)

Petition to Deny Applications for Cond. Authority 8/7/2010 Whedbee
Ex Parte Suggestion to Consolidate/Expedite 8/7/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
Petition to Deny 8/17/2010 ARRL

First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee

Petition for Declaratory Ruling 9/11/2010 Whedbee

0004348020 Springfield Police Department (filed 8/9/10; amended 8/25/10)

Informal Objection pending Petition to Deny 8/10/2010 Whedbee
Petition to Deny Application(s) 8/12/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
Petition to Deny 8/17/2010 ARRL

First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee

Petition for Declaratory Ruling 9/11/2010 Whedbee

0004348657 County of San Bernardino (filed 8/9/10; amended 8/25/10)

Informal Objection pending Petition to Deny 8/10/2010 Whedbee
Petition to Deny Application(s) 8/12/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
Petition to Deny 8/17/2010 ARRL

First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee

Petition for Declaratory Ruling 9/11/2010 Whedbee

0004349756 St. Mary's County Sheriff's Office (filed 8/10/10; amended 8/25/10)

Informal Objection pending Petition to Deny 8/11/2010 Whedbee
Petition to Deny Application(s) 8/12/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
Petition to Deny 8/17/2010 ARRL

First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL

Federal Communications Commission DA 12-123

29

Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

0004349765 Larimer County Sheriff's Office (filed 8/10/10; amended 8/25/10)

Informal Objection pending Petition to Deny 8/11/2010 Whedbee
Petition to Deny Application(s) 8/12/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
Petition to Deny 8/17/2010 ARRL
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

0004351768 State of Idaho (filed 8/12/10; amended 8/25/10)

Petition to Deny Application 8/13/2010 Whedbee
Opposition to Petitions to Deny 8/16/2010 ReconRobotics
Reply to Opposition of ReconRobotics 8/16/2010 Whedbee
Tech Specs for Objecting Radio Station N0ECN 8/17/2010 Whedbee
Petition to Deny 8/17/2010 ARRL
First Amended Petition to Deny - 2nd list of apps 8/26/2010 Whedbee
Reply to Opposition to Petition to Deny 9/1/2010 ARRL
Opposition to Amended Petitions to Deny 9/7/2010 ReconRobotics
Reply 9/7/2010 Whedbee
Petition for Declaratory Ruling 9/11/2010 Whedbee

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of:)	
)	
Applications for Public Safety Pool)	DA 12-123
(Conventional) Licenses for Mobile)	File No.s 0004270113, et al.,
Use of ReconRobotics Video and)	secondary to WT Docket 08-63
Audio Surveillance Systems on)	
430-448 MHz.)	

To the Commission:

PETITION FOR RECONSIDERATION

Comes now the Petitioner, JAMES EDWIN WHEDBEE, pursuant to Section 1.106 of the Commission's rules and regulations (47 CFR § 1.106), respectfully petitions the Commission to rescind and reconsider its Order, DA 12-123, issued 06 February 2012 under the delegated authority of the Chief, Public Safety and Homeland Security Bureau. Petitioner filed Petitions to Deny and supporting challenging documentation against the license applications bearing the above-captioned and exhibited file numbers (Exhibit A) alleging that the applications were defective by reason of improper frequency selection, improper emission designator, improper frequency coordination, and that a grant of said applications would be contrary to the public interest, convenience, and necessity in that such a grant would: result in interference, cause the licensees (mostly law enforcement agencies) to violate law by violating the express terms and conditions of their licenses, and violate the Administrative Procedures Act, and as a proximate cause thereof violate the Petitioner's Constitutional due process rights, by creating a new radio service by waiver rather than through rulemaking proceedings in derogation of Petitioner's licensed interests. Accordingly, Petitioner is an aggrieved party and has standing. Therefore, in support of his Petition, the Petitioner states as follows.

1. The emission designator 100KC3F or 108KC3F for an analog NTSC motion picture composite video signal violates fundamental laws of physics and is impossible within the state of the art. The correct emission designator for a motion picture NTSC signal is 6M25C3F. Given that “6M25” means that signals using NTSC would exceed the 6 MHz bandwidth 'channels' assigned by the Commission in its 'Waiver Order' (DA 10-291), the ReconScout devices cannot be constrained within either the 100 kiloHertz bandwidth of the licenses the Commission just granted nor within the 6 megaHertz channels of the DA10-291 Order; accordingly, the Commission erred in granting the license applications and Petitioner is entitled to grant hereof.

2. The Petitions to Deny filed by the Petitioner were not informal pleadings and the Commission offers no explanation for its prejudicial summary recharacterization of such formal Petitions to Deny as informal objections; therefore such action was arbitrary and capricious. Moreover, given that the Petitions to Deny and Replies to Opposition filed by this Petitioner rely on a justiciable issue, i.e., standing, the arbitrary and capricious prejudicial recharacterizations of the Petitions to Deny and associated documentation violates the Petitioner's Constitutional rights of due process and rights of redress. To be certain, ReconRobotics had and still has no standing to object to any Petition to Deny, and their pleadings (however denominated or characterized by the Commission) were filed entirely without standing; yet, the Commission apparently relies wholesale upon the arguments of ReconRobotics to grant license applications not even filed by ReconRobotics; again, clearly an arbitrary and capricious decision. The combination of these arbitrary and capricious decisions deprived Petitioner of a chief point: that his Petitions to Deny were unopposed by the prospective licensees, that ReconRobotics did not have equal footing to oppose those Petitions to Deny as its part ended with the marketing of the ReconScout devices, and, that without the officious intermeddling of ReconRobotics, the Commission's record would have been better informed.

3. Collaterally attacking the 'Waiver Order' DA 10-291 during the license application process while filing of a Motion to Set Aside, Correct, or Vacate the same is an appropriate vehicle through which to preserve judicial review of the Commission's suspect actions. ReconRobotics, throughout the lifetime of its efforts to market its ReconRobotics devices throughout the United States has 'forum shopped' the bureaus of the Commission to obtain the outcome Order DA 12-123 afforded; however, throughout this process, the following defects remain unresolved...

[a] There is no such radio emission befitting 100KC3F which achieves NTSC quality motion picture video. As a matter of physics, one cannot produce such a signal within the state of the art. As licensee for N0ECN, the Petitioner asserted interference would occur if the license applications were granted in their current form, assuming – arguendo – that the applications for license were filed in the correct form. This is simply because with a 100 kHz bandwidth, the spectral density of RF emissions are 17 dB higher than emissions with a 6.25 MHz bandwidth; so, here either the applicants must cause interference due to the higher spectral density of RF emissions from a narrower bandwidth transmission or, alternatively, violate the occupied bandwidth restriction given in the 'Waiver Order' by actually being what those ReconScout devices purport to be: NTSC transmitters with a 6.25 MHz bandwidth (in excess of the bandwidth allowed in the 'waiver').

ReconRobotics argues that it can operate within a narrower bandwidth than authorized; however, even with the most sophisticated signal compression techniques and using strictly black-and-white low quality video, no truly motion picture analog video signal has been generated within the bandwidths ReconRobotics is stating in either its equipment authorizations, nor will any licensee be capable of complying with such a narrow bandwidth using NTSC video emissions. This is a huge problem for the licensees who are – largely – law enforcement agencies. If these law enforcement

agencies are violating the terms and conditions of their licenses by operating with a wider bandwidth than their licenses permit, these law enforcement agencies are themselves breaking the law, and given that the law broken in this instance is federal, it could prejudice the quality of any evidence gathered using these devices should a criminal defendant challenge evidence gathered with the ReconRobotics devices. The facts underlying this situation and the legal constraints those facts could impose upon any law enforcement licensee/applicant cannot be in the public interest, convenience, and necessity, yet the Commission has been obstinately deaf, dumb, and blind to the protestations of this Petitioner and the ARRL. The only explanation the Commission gives is boilerplate: the arguments aren't 'persuasive.' This begs the question: what would be persuasive if the Commission is willing to allow criminal convictions to be tainted due to the evidence gatherers' violations of federal law?

[b] There still is no authority for the licensees to operate between 430-450 MHz because Part 2 has not been changed, no federal laws have been changed, and the International Radio Rules have not been changed; accordingly, the Commission has largely acted outside norms of authority. The Commission's Office of Engineering and Technology experimentally licensed ReconRobotics devices pending the outcome of these proceedings rather than requiring developmental licenses under Part 90, thus violating both Parts 5 and 90 of the Commission's rules. Part 5 specifically denies experimental licenses to applicants who can obtain a license under a different radio rule; Part 90 specifically provides for developmentally licensing new technologies. If ReconRobotics had a new technology sufficiently well-grounded as to warrant the creation of a new radio service (or marketing to thousands of communities), that could have been adopted post-licensing under the developmental licensing protocols already established by the Commission; however, this would have required the full panoply of due process under rulemaking proceedings.

[c] The 'Waiver Order' 10-291 was, in fact if not in name, a short-circuited rulemaking proceeding. Waivers are narrowly tailored to one potential end-user as well as one or two rules and cannot be extended to large groups of people. This is why the full process of comment, reply comment, extensions, and other processes aren't typical of waiver proceedings. The instant 'Waiver Order' and particularly given its retroactive waiver of Section 2.106 of the Commission's rules on Reconsideration, created an entirely new radio service: one more properly named the Mobile Public Surveillance Radio Service. The Commission's Order 12-123 specifically states that this 'Waiver Order' extended not just to ReconRobotics but to unspecified and unnamed end-users who could – sight unseen – cite the 'Waiver Order' in their license applications. When this Petitioner filed his Motion to Set Aside that 'Waiver Order' the Commission acted as it just did with Petitioner's Petitions to Deny: inexplicably and prejudicially redesignating those. It is clearly so prejudicial because whenever the Petitioner said something the Commission didn't like, the Commission unilaterally changed the nature of the Petitioner's pleadings without so much as a justification beyond summing up what the Commission did. The Petitioner filed his pleadings in the form chosen and intended those to be considered as such – to accord those less standing is to lend those lesser weight and is clearly with intent to prejudice against the Petitioner's arguments and reduce Petitioner's credibility.


[d] The totality of circumstances in these ReconRobotics proceedings are highly suspect: the Commission goes out on a limb to grant a waiver to unknown license applicants via an equipment manufacturer whose product culminated from military experience with foreign origins; the Commission ignores the expertise of incumbent licensees on their own frequencies that interference shall occur if certain equipment is licensed and operated in favor of a speculative 'waiver' recipient who cannot apparently identify the correct emission designator for NTSC video; and, the Commission writes orders in connection with the foregoing which rely wholly upon proponent arguments and which

act wholly against incumbent licensees, and uses opponent arguments to waive – retroactively – a provision which protects not only licensees, but international radio operations. Furthermore, the Commission's actions threaten the value of any evidence ReconScout devices collect because the emissions will be 62.5 times wider than that which the law enforcement agencies are licensed to use, thus causing those law enforcement agencies to violate federal law, thus risking the impairment of that evidence in any criminal prosecution; nevertheless, the Commission continues forthwith blindly ignoring expertise of those with nothing to gain investing the time to divulge it. In what other proceedings has the Commission so acted? In ET Docket 04-37, also involving Mr. Mitch Lazarus, the Commission took nearly identical actions and used nearly identical tactics. To suggest that the Commission has acted prejudicially and damaged this Petitioner is to state the obvious; however, the Commission does not have the authority, by delegation or otherwise, to cause a law enforcement agency to violate the law; accordingly, the Petitioner is entitled to an immediate grant hereof.

[4] The Petitioner undersigned is a regular professional member of the Society of Broadcast Engineers, possesses a Masters Degree in both Public Affairs and Education, and has over thirty years licensed experience in radio communications – including several on active duty in the military. The Commission suggested that the 'Waiver Order' addressed the issue of the ReconScout devices causing interference, and that therefore, the Petitions to Deny were 'unpersuasive.' The Petitions to Deny can independently challenge license applicants for interference potential, and given the Petitioners' qualifications, those have mathematically proven interference shall occur. The Commission's boilerplate “unpersuasive” remark is not a refutation of the allegation of interference in the Petitions to Deny, and the 'Waiver Order' relied wholly on the self-serving assertions of ReconRobotics rather than mathematical proofs; accordingly, the rejection of the interference claim was arbitrary and capricious.

WHEREFORE, the foregoing considered, Petitioner undersigned respectfully requests the Commission rescind and reconsider its Order, 12-123, cancel each existing license it has previously granted under these proceedings, or alternatively redesignate the grants thereof as developmental pending further proceedings, and for such other and further relief as shall be consistent herewith.

Respectfully submitted:



01 MARCH 2012

JAMES EDWIN WHEDBEE, M.Ed., M.P.A.
Society of Broadcast Engineers #26971
PETITIONER

5816 NE Buttonwood Tree Lane
Gladstone, Missouri 64119-2236
816.694.5913
jamesewhedbee@yahoo.com